

Regulation Respecting the Compliance Officer in The Kahnawà:ke Residency Law

K.R.L c. R-3, r-8

This Regulation was enacted pursuant to section 21.1b of the *Kahnawà:ke Residency Law* (the “Law”) and approved by the Mohawk Council of Kahnawà:ke on XXXX XX, 2022.

COMPLAINTS

- 1) Complaints for eviction must be;
 - a) submitted in the form provided by the Regulation Respecting Complaints
 - b) accompanied by all supporting information
 - c) fully completed and signed
 - d) and submitted to the Compliance Officer

Within ten business (10) days of the receipt of an *Application for Complaint for Eviction of an Individual in Violation of the Kahnawà:ke Residency Law*, the Compliance Officer will provide written notice to the applicant advising that the application has been received.

- 2) Within ten (10) business days of the receipt of an *Application for Complaint for Eviction of an Individual in Violation of the Kahnawà:ke Residency Law*, the Compliance Officer will provide written notice to the person in question, including:
 - a) A copy of the complaint, with sensitive sections redacted;
 - b) A deadline for the person in question to provide any written representations of additional evidence;
 - c) Information for the person in question about their right to apply within ten (10) working days for a permit or authorization to be an Approved Kahnawake Resident or for Recognition as a Kanien’kehá:ka of Kahnawà:ke.
 - d) The Compliance Officer will close the file if the person applies for a Permit, for authorization as an Approved Kahnawà:ke Resident or for recognition as a Kanien’kehá:ka of Kahnawà:ke, within ten (10) working days of receiving the written notice in section 15.3 of the *Kahnawà:ke Residency Law* and the Compliance Officer will close the file and inform the person and the Complainant that the file will proceed by the application process and be decided by the Residency Registrar.
 - e) If the person has not applied for a Permit, for authorization as an Approved Kahnawà:ke Resident or for recognition as a Kanien’kehá:ka of Kahnawà:ke within ten (10) working days of receiving the written notice in section 15.3 of the *Kahnawà:ke Residency Law*, the Compliance Officer must determine whether the Complaint is admissible.
 - f) For a Complaint to be considered admissible by the Compliance Officer, the Complaint must be:
 - i. factually based;
 - ii. in writing or transcribed;
 - iii. sworn or solemnly affirmed and signed by the Complainant;
 - iv. in accordance with the Law and Regulations;
 - v. related to one of the criteria for eviction under section 15.2 of the *Kahnawà:ke Residency Law* ;
 - vi. and supported by evidence.
 - g) If the Compliance Officer determines the Complaint as not admissible, they will provide a written decision to the Complainant within thirty (30) days of receiving the Complaint and the decision is without appeal.

h) If the Compliance Officer has decided that a Complaint is admissible, and the person does not have the entitlement or permission to Reside on the Territory, the Compliance Officer must enclose with their reasons for decision a Notice of Eviction.

i) The person who is the subject of a Notice of Eviction has thirty (30) days to request a review of the Compliance Officer's decision in section 15.12 as related to an admissible complaint.

REVOCAION OF PERMIT OR APPROVED KAHNAWÀ:KE RESIDENT

1) The Compliance Officer must send the person whose Permit or authorization has been revoked a Notice of Eviction within five (5) working days of receipt of the Residency Registrar's decision.

DENIAL OF APPLICATION BY REGISTRAR

1) The Residency Registrar must provide the Applicant and the Compliance Officer with a written decision regarding the merits of the application within sixty (60) days of the last day of public notice. The written decision will be sent by Registered Mail.

2) If the Residency Registrar denies the application, the Compliance Officer must send the Applicant a Notice of Eviction within five (5) working days of receipt of the Residency Registrar's decision.

NOTICE OF EVICTIONS

1) A Notice of Eviction must be delivered by hand to the person in question by bailiff, and must include:

- a) the full legal name of the person being evicted;
- b) written reasons for the eviction;
- c) the date the person must leave the Territory;
- d) the date, time and place when an eviction order will be sought before a Justice and the person's right to be present and be heard; and
- e) any other information as required by this Law and Regulations.

2) The Compliance Officer must send a copy of any Notice of Eviction or any decision of the Community Review Board or Justice upholding of Revocation or a Notice of Eviction to MCK Justice Services.

3) If applicable, the Compliance Officer must send a copy of the Notice of Eviction to the landlord who is renting the property to the person who has received a Notice of Eviction.

4) The person who is the subject of the Notice of Eviction can contact the Compliance Officer to arrange dates in which they plan to remove themselves from the community and it is within the Compliance Officer's authority to delay the processing of the Notice of Eviction to accommodate the delay. The delay may be extended based on additional need. Any delay or extensions combined cannot exceed one year.

5) Any delay agreed upon by the Compliance Officer must be in writing and signed by the subject of the Notice of Eviction.

EVICION ORDERS

1) The Compliance Officer will create and bring forward a motion to evict to the Court of Kahnawà:ke.

2) The motion to evict will be brought to the Court Clerk as per the *Regulation Respecting Eviction*.

COMMUNITY REVIEW BOARD

The Compliance Officer will respond to any requests and participate in any reviews by the Community Review Board.

COURT OF KAHNAWA:KE

The Compliance Officer will respond to court requests and participate in any Court hearings.

EXTENDED ABSENCE

1. The General Manager of the Office of the Kahnawà:ke Kanien'kehá:ka Registry will provide for an alternate to assume the temporary function of the Compliance Officer in the event the Compliance Officer is:
 - a. out of the office for an extended absence, or
 - b. the position is vacant.
2. Due to the time constraints contained in the Kahnawake Residency Law, an extended absence is constituted by an absence from the office for longer than 10 business days.
3. It is the responsibility of the General Manager to have two alternate Compliance Officers identified and able to assume responsibility should the need arise.

CONFLICT OF INTEREST

4. If the Compliance Officer is in a conflict of interest with an individual or an individual subject to an investigation, or to individuals associated to the investigation, or in a conflict of interest with any individual associated with an application, complaint, review or decision related to their duties identified in the Kahnawà:ke Residency Law;
 - a. the General Manager of the Office of the Kahnawà:ke Registry will contact and secure an Alternate Compliance Officer for the affected file.
 - b. in the event the General Manager is unable secure an Alternate, a private investigator will be contracted.
5. For the purposes of the Kahnawake Residency Law a conflict of interest is constituted by:

Personal Interest – The following constitutes a personal interest for the purposes of this regulation:

- (a) A financial interest that the Compliance Officer, or acting replacement, has in a business that provides services to, or contracts with the complainant, the individual being investigated, their partner or the landlord for remuneration;
- (b) Any gift, gratuity, favor or compensation of any nature whatsoever the Compliance Officer, or acting replacement, may receive in the performance of their duties under this Law with the complainant, the individual being investigated, their partner or the landlord that is not for remuneration in accordance with their employment contract;
- (c) Any external commitment, including, but not limited to, employment, contract, or volunteer work which, by its nature places the Compliance Officer, or acting replacement, in a position where the individual under investigation's personal information may be used without the written consent of the individual; or
- (d) The advancement of personal/political agendas through an investigation outcome.

Related Individual – The following constitutes a related individual for the purposes of this regulation:

- (a) Related by blood or adoption, including: parent, child, sibling, aunt, uncle, first cousin, nephew or niece;
- (b) Related by marriage, including: a current or former spouse, brother-in-law, sister-in-law, father-in-law, mother-in-law, son-in-law, daughter-in-law, step-parent, step-child; or
- (c) Related through another relationship, including: a close friendship, a current or former relationship, occurring outside the work setting that would make it difficult for the individual with the responsibility to make either a decision or a recommendation to be objective, or that would create the appearance that such individual could not be objective. Examples include, but are not limited to, amorous or intimate personal relationships and significant business relationships and affiliates with other organizations.

COMING INTO FORCE

6. This Regulation comes into force on the date fixed by Mohawk Council Executive Directive.